



# Mandating Even-Handed Policing

## Anti-Profilng Directive, Training Program Unveiled for Local Police

**R**ecognizing that racial profiling has in no way been limited to the New Jersey State Police, or to policing agencies that engage in highway drug interdiction, Attorney General Harvey announced in June 2005 that New Jersey had established a first-of-its-kind law enforcement education program to eradicate racially-influenced policing at every level.

Key to the effort was implementation of a new, statewide Attorney General's Directive that defines — and prohibits — the discriminatory practice of using race to make policing decisions. The Attorney General's Directive requires every New Jersey police department and law enforcement agency to adopt and enforce a rule, regulation, or operating procedure, expressly prohibiting racially-influenced policing tactics. It also requires every law enforcement officer — from new recruits to the most experienced veterans — to undergo an intensive, in-service and Police-Academy-based course of instruction within 180 days.

In signing "Law Enforcement Directive 2005-1," Attorney General Harvey noted that the new anti-profilng initiative had received the support of the New Jersey State Association of Chiefs of Police, the New Jersey County Prosecutors' Association, the New Jersey State League of Municipalities, the Police Training Commission, the Division State Police, the Division of Criminal

Justice, and state, county, and municipal officials. Additionally, the program had been presented to, and reviewed by, the Black Ministers Council of New Jersey, the NAACP, and the Rutgers Police Institute.

The core of the Attorney General's Directive is a clear admonition that police officers "may not consider a person's race or ethnicity as a factor in deciding whether that person may be involved in criminal activity, or in deciding how to treat that person. Unless the officer is responding to a suspect-specific or investigation-specific 'Be On the Lookout For' situation, a person's race or ethnicity may play no part in the exercise of police discretion."

As a companion to the new Directive, the Division of Criminal Justice, in concert with the Police Training Commission, distributed in 2005 an up-to-date three hour video training course that focuses on situations municipal police and other law enforcement officers are likely to encounter.

Two years in development, the video training course is based on training that New Jersey State Police have received — and continue to receive — under a 1999 federal Consent Decree. The State Police training course emphasizes that a police officer may not conclude that a person seems to be "out of place" or "up to no good" based on considerations of race or ethnicity. The training course also explains why police officers are prohibited from considering a person's race or ethnicity in deciding whether the person appears to "fit" or "match" the vehicle that he or she is operating.

**The New York Times**

## Trenton Moves To Eradicate Race Profiling By Local Police

By RONALD SMOTHERS

TRENTON, June 28 — New Jersey, once vilified nationally for encouraging racial profiling by the state police, will now require officers in all 479 of the state's municipal police forces to undergo training intended to eliminate the practice.

Peter C. Harvey, the state attorney general, signed a directive on Tuesday that requires a half-day of anti-profilng instruction at the academies that his office operates to train municipal police officers. He also ordered all police departments to certify within six months that current officers have taken a self-administered version of the program, to be provided in videotape, DVD and written forms.

Mr. Harvey and experts in the field said the program represented the first time that a state law enforcement agency has mandated such



"State Police leadership understands the concerns of minorities, the issues of disparate treatment, the need for accountability, and the importance of continued training and education to provide every law enforcement officer the knowledge and tools to perform their jobs fairly and impartially," said State Police Superintendent Col. Joseph R. Fuentes. "This cutting edge training program will insure that county and local law enforcement share in the State Police commitment to protect the Constitutional rights of all citizens."

Additional information, including Attorney General Directive 2005-1, the full text of the training program (Companion Guide), Skills Assessment, overview of New Jersey's Racial Profiling Policy, a streaming video which overviews the training initiative, a guide instructing police officers on what they can do to investigate criminal activity, along with web links to the Police Training Commission, federal monitor's reports, and related information is available via the Division of Criminal Justice Web site at [www.njdcj.org](http://www.njdcj.org).

## AG's Directive Bans Profiling in Terrorism-Related Intelligence Gathering

While thwarting terrorist activity remains New Jersey's highest priority, Attorney General Harvey made clear in 2005 that homeland protection will not be achieved at the cost of guaranteed rights and individual privacy protections.

In a new directive issued December 20, 2005, the Attorney General expressly directed that Office of Counter-Terrorism (OCT) personnel — and all other sworn law enforcement officers operating under State authority — are prohibited from using race, ethnicity and/or religion as sole factors in determining whether to investigate a person for possible involvement in terrorism.

While acknowledging that New Jerseyans "rightfully expect that all lawful and appropriate means will be used to thwart terrorists," the Attorney General cautioned that public confi-

dence requires a clearly-articulated ban on the use of "broad-brushed ethnic or religious stereotypes in targeting individuals for law enforcement scrutiny."

The one exception noted in the new directive involves law enforcement actions related to "Be on the Look-Out" or "BOLO" situations — cases in which specific persons are being sought in connection with specific, terrorism-related activities, and details regarding their race, ethnicity and/or manner of religious expression have been issued to help identify the BOLO targets' physical characteristics.

As part of his directive, Attorney General Harvey called on the Division of Criminal Justice to generate guidelines that specify when and how counter-terrorism cases can be opened. Due within 90 days of the directive's issuance, the guidelines are expected to dictate the scope, duration, subject matter and objectives of counter-terrorism cases. The guidelines are also expected to explain when — and under what circumstances — various investigative techniques are authorized, and when investigators must obtain approval from designated superiors before employing certain techniques.

Also, all Office of Counter-Terrorism investigators and intelligence analysts were directed by the Attorney General to undergo training within 60 days on the standards for submitting information into SIMS (Statewide Intelligence Management System), the Web-based law enforcement intelligence data base. The Attorney General's Office will work to develop the training in consultation with the U.S. Department of Justice.

Compliance with the new anti-profiling directive will be monitored by one or more Assistant Attorneys General or Deputy Attorneys General, and any other staff deemed appropriate. The

designated compliance monitors will report directly to the Attorney General on at least a quarterly basis, and will be afforded full access to all relevant OCT and State Police intelligence information and files.

The American Arab Forum welcomed the Attorney General's order as "a concise directive which further clarifies the standing prohibition against racial profiling."

## 12<sup>th</sup> and 13<sup>th</sup> Independent Monitors Reports Laud "Full Compliance" by State Police

While continuing to demonstrate excellence through its highway and marine patrols, criminal investigations, emergency management capabilities and a host of other efforts, the State Police achieved a milestone in 2005 by attaining "full compliance" — in two successive Independent Monitors Reports — with every task required by a federal Consent Decree.

In the 12<sup>th</sup> and 13<sup>th</sup> Monitors Reports issued since monitoring of State Police began under the five-year-old Consent Decree, State Police was commended for achieving 100 percent compliance with all requirements of the agreement.

Specifically, the Independent Monitors noted that State Police motor vehicle stops were "remarkably trouble free" during the 12<sup>th</sup> and 13<sup>th</sup> six month review periods — the former spanning from October 1, 2004 through March 31, 2005, the latter from April 1, 2005 through September 30, 2005.

The Monitoring Reports represented consecutive, landmark achievements, and showed that State Police had moved beyond a level of "substantial compliance" with the Consent Decree — as noted in the 11<sup>th</sup> Independent

*Left: Attorney General Harvey and Division of Criminal Justice Director, Vaughn L. McKoy sign a new, statewide directive that defines and prohibits the discriminatory practice of using race to make policing decisions.*

*To the left of the photo is the cover of an extensive guide to Eradicating Racial Profiling.*

## AG to cops: Don't use ethnicity, faith to target terror suspects

BY RICK HEPP  
STAR-LEDGER STAFF

New Jersey authorities cannot use "ethnicity, religious affiliation, or religious practice" as the sole factor in determining whether to investigate someone for possible terrorist activity, according to a written order issued yesterday by Attorney General Peter Harvey.

The attorney general created the policy in direct response to allegations raised this fall that New Jersey's Office of Counter-Terrorism targeted suspects in terrorism investigations solely because of their Muslim faith or Arab heritage.

"The citizens of New Jersey rightfully expect that all lawful and appropriate means will be used to thwart terrorists," Harvey noted. "The impermissible use of such stereotypes would ultimately undermine our counter-terrorism efforts by alienating significant segments of our society."

The directive applies to all

tions, pitting Harvey and State Police Superintendent Rick Puentes on one side and Caspersen on the other.

Acting Gov. Richard Codey intervened and eventually issued an executive order that removed Harvey's authority over the day-to-day operations at Counter-Terrorism by shifting hiring and budget matters to his administration.



HARVEY

But in a sign the "turf battle" may not be over, Harvey ordered Counter-Terrorism agents to get approval from either the attorney general or the director of the Division of Criminal Justice before seeking grand jury subpoenas, arrest warrants and other documents authorizing searches or electronic surveillance.

of counter-terrorism cases as well as the techniques that can be used at different steps of the investigation, according to the directive.

In addition, all Counter-Terrorism investigators and analysts must undergo training within 60 days on federal guidelines that govern what personal information — such as political, religious or social views, associations and activities — can be kept in SIMS. The guideline, which applies to systems that receive federal funding, aims to protect privacy rights by forbidding the collection of personal information not directly related to criminal conduct.

Muslim groups voiced support for the directive.

"It shows a desire to return to being a people of law ... where your actions trigger law enforcement activities, not race, religion or any of those other things about you," said ...



Monitors' Report — to full compliance. Full compliance in successive monitoring periods is a pre-requisite for possible dissolution of the Consent Decree in the future (with approval from the U.S. District Court).

In addition to lauding the handling of motor vehicle stops by Troopers and the high caliber of oversight provided by State Police supervisors, the Independent Monitoring Team indicated in both of its 2005 reports that State Police had traveled a path of "truly remarkable" progress in such key areas as trooper training, personnel supervision and — perhaps most notably — field operations.

The 12<sup>th</sup> and 13<sup>th</sup> Monitoring Reports made clear that "no indications of racial profiling" had been found in State Police traffic stops reviewed by the monitors. The reports also referred to the consistently high caliber of work observed in field operations as extraordinary "considering the complexity of the law enforcement processes under scrutiny." Based on the findings of the 12<sup>th</sup> and 13<sup>th</sup> reports, the monitors recommended that direct monitoring of State Police field operations be scaled back for the remaining life of the Consent Decree. While the report advocated continued monitoring at the same level of such areas as field supervision, training, and management review processes, it noted that there was "little to be gained" by continuing to devote the same amount of monitoring activity to review of State Police traffic stop video tapes and other field operations indicators.

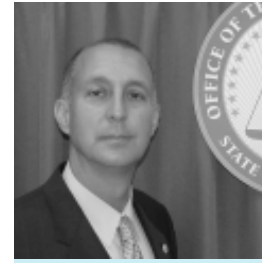
From the first report issued in 2000, the court-appointed Independent Monitors — Dr. James Ginger and Alberto Rivas, Esq. — were impressed "with the commitment, focus, energy and professionalism" of New Jersey State Police and the Office of State Police Affairs. (The Office of State Police Affairs, within the Attorney

General's Office, was created to ensure implementation of State Police reform recommendations made by a specially-appointed State Police Review Team, and to ensure full compliance with the terms of the Consent Decree.)

Since that first report, progress in complying with all terms of the Consent Decree has been strong and steady, making the New Jersey State Police a national model for implementing change in police training and practices.

The 12<sup>th</sup> and 13<sup>th</sup> Monitors Reports, though, were watersheds. Among other things, the reports commended the State Police for full compliance with the Consent Decree in development of a state-of-the-art personnel performance management system known as MAPPS (Management Awareness Personnel Performance System.) The system allows the Division to review trooper and supervisory performance, and to compare individual troopers to larger groups. MAPPS also places New Jersey in the forefront of intelligence-driven policing by supplying "trend" information pertaining to crime-specific locations over specific periods of times.

What was most remarkable about the full compliance described in the two Monitoring Reports issued in 2005 was that it was achieved during a time in which State Police productivity increased across the board. Compared to 2004, State Police motor vehicle stops were up 20 percent in 2005, with a corresponding increase in the issuance of summonses and warnings. Driving While Intoxicated arrests by troopers also increased by 6 percent in 2005 and, because of successful traffic programs and increased Trooper visibility on the road, there were fewer reported instances of aggressive driving.



*Daniel G. Giaquinto*  
Director

## Office of State Police Affairs

Located within the Attorney General's Office, the Office of State Police Affairs (OSPA) was created to assist the implementation of reform recommendations made by a specially-appointed State Police Review Team, and to enable full compliance with the terms of a federal Consent Decree pertaining to the prevention of racial profiling. The essential mission of the Office of State Police Affairs is to ensure that the New Jersey State Police is, and remains, a premier law enforcement agency committed to the most effective and constitutionally sound police practices. On a regular basis, the OSPA oversees the training of troopers and trooper candidates on cultural awareness, law enforcement ethics and leadership, constitutional law pertaining to search and seizure and equal protection, and other issues. The OSPA also provides Consent-Decree-related technical assistance to State Police decision makers, and monitors and reviews State Police internal investigative processes to make certain they are being carried out properly.

- Daniel G. Giaquinto, Director, AAG
- Desha Jackson, Deputy Director, DAG

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